



MAY 21 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
www.uspto.gov

BANNER WITCOFF  
28 STATE STREET  
28TH FLOOR  
BOSTON, MA 02109-1775

In re Application of :  
BEIJNEN et al. :  
Serial No.: 09/622,433 :  
PCT No.: PCT/GB99/00511 : DECISION ON PETITION  
Int. Filing Date: 18 February 1999 :  
Priority Date: 18 February 1998 : UNDER 37 CFR 1.137(b)  
Attorney's Docket No.: 4512/00004 :  
For: PHARMACEUTICAL FORMULATION OF A :  
DIDEMNIN COMPOUND :

This is a decision on applicants' "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" in the above referenced application. The petition was filed on 10 May 2002 in the United States Patent and Trademark Office (USPTO). A petition fee of \$1280 is required.

**BACKGROUND**

On 25 September 2000, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that the oath or declaration, in compliance with 37 CFR 1.497(a) and (b), and surcharge for filing the oath or declaration after the thirty month period was required.

On 23 March 2001, applicants filed a response to the Notification of Missing Requirements (Form PCT/DO/EO/905) along with a request for a four month extension of time and fee, which was granted. A declaration executed by four of the five inventors was submitted. The surcharge for filing the declaration after the thirty month period was also submitted.

On 12 April 2001, a Notification of Defective Response (Form PCT/DO/EO/916) accompanied by a Notification of Defective Oath or Declaration (Form PCT/DO/EO/917) was mailed to applicants indicating that the oath or declaration was not executed in accord with 37 CFR 1.66 or 1.68, specifically, the declaration was not signed by the fourth inventor. A one month period of time was set to respond to the Notification or by 12 May 2001.

On 15 May 2001, after the period within which to respond to the Form 916 and 917 expired, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants indicating that applicants had failed to respond to the Notification of Missing Requirements and that the application was considered abandoned.

On 10 May 2002, applicants responded to the Notification of Abandonment with the instant petition to revive the abandoned application and with a declaration executed by the fourth inventor, Andres Gomez. The declaration, which accompanied the response, referenced international application no. PCT/GB99/00511.

### **DISCUSSION**

The petition to revive under 37 CFR 1.137(b) filed 10 May 2002 in the above-captioned application is hereby **GRANTED** as follows:

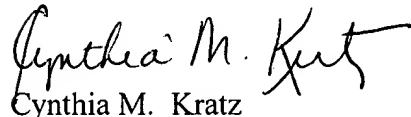
Applicants' statement that international application that "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of \$840 has been paid. The required petition fee of \$1280 will be charged to applicants' deposit account per their authorization and thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

### **CONCLUSION**

For the reasons stated above, the petition to revive under 37 CFR 1.137(b) filed 10 May 2002 in the above-captioned application is **GRANTED**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing. The 35 U.S.C. 371(c) date is **10 May 2002**.



Cynthia M. Kratz  
Attorney Advisor  
PCT Legal Office

Telephone: (703) 306-5467  
CMK:cmk